

Hon. Ronald B. Leighton



03-CV-05531-MISC

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

**EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION,**

Plaintiff,

Case No. C03-5531 RBL

and

CONSENT DECREE

ANN MORGAN and GENNY SMITH,

Intervenors,

v.

**HANNAH MOTOR COMPANY and
BRYAN LINDSAY and the marital
community comprised thereof,**

Defendants.

I. INTRODUCTION

1. This action originated with a charge of employment discrimination filed with the Washington State Human Rights Commission ("WSHRC") and the Equal Employment Opportunity Commission ("the Commission") on April 1, 2002 by Ann R. Morgan ("Charge"). The Charge alleged that Hannah Motors Company d/b/a Dick Hannah Dealerships ("the Company") subjected Morgan to sexual harassment by

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1 General Sales Manager Bryan Lindsay because of her gender and terminated her
 2 employment in retaliation for having complained of Lindsay's sexual harassment in
 3 violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e ("Title VII") and
 4 the Washington State Law Against Discrimination. EEOC found reasonable cause to
 5 believe the Charge to be true and that Genny Smith was a similarly situated class
 6 member who was also sexually harassed by Lindsay and that Smith was constructively
 7 discharged. The Company denies that it discriminated against Ms. Morgan, Ms. Smith
 8 or any other employee in any manner.

10 2. Following the issuance of a Letter of Determination and the failure of
 11 conciliation efforts, the Commission filed a lawsuit under Title VII against the Company
 12 on September 29, 2003.

14 3. The parties want to conclude the claims arising out of the charge, the
 15 Commission's determination with regard to the charge, and the lawsuit arising from the
 16 charge, without expending further resources in contested litigation.

17 **II. NONADMISSION OF LIABILITY AND**

18 **NONDETERMINATION BY THE COURT**

19
 20 4. This Consent Decree is not an adjudication or finding on the merits of this
 21 case and shall not be construed as an admission by the Company of a violation of any
 22 law.

23 **III. SETTLEMENT SCOPE**

24 5. This Consent Decree is the final and complete resolution of all allegations
 25 of unlawful employment practices included in the Charge, in the Commission's Letter of
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1 Determination and in the Commission's complaint filed in the case that were or could
 2 have been brought based on the administrative charge, including all individual and all
 3 class claims, as well as claims by the parties and/or class members for attorney fees
 4 and costs. The injunctive relief provisions of this Consent Decree apply to all of the
 5 Company's facilities in the State of Washington and is final and binding as to all such
 6 issues and claims.
 7

8 **IV. MONETARY RELIEF**

9 6. In settlement of this suit, the Company agrees to pay Four Hundred Fifty
 10 Thousand Dollars and No Cents (\$450,000.00) to Ms. Morgan and One Hundred
 11 Twenty-Five Thousand Dollars and No Cents (\$125,000.00) to Ms. Smith in settlement
 12 and satisfaction of all claims for monetary relief which were or could have been
 13 asserted in the case by them. Payment of settlement proceeds to Ms. Morgan and Ms.
 14 Smith will be made in the following manner:
 15

- 16 a. Ms. Morgan, Ms. Smith and the company will enter into a private
 17 release agreement to which the EEOC is not a party.
- 18 b. Upon receipt by the Company of the signed release agreements,
 19 the Company shall, within fourteen days issue a check to Ms. Morgan and
 20 Ms. Smith in the amounts specified in this paragraph and issue to them a
 21 Form 1099. All checks shall be mailed by first class mail to The
 22 Blankenship Law Firm, P.S.
- 23 c. Within 5 days of mailing the checks, the Company will verify the
 24 mailing by providing to the EEOC copies of the checks and a Declaration
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1 of an appropriate company official attesting that the Company mailed the
2 checks in compliance with the Decree.

3 d. Individuals receiving payments under the Decree bear the ultimate
4 responsibility for the tax consequences of the payments received.

5
6 **V. INJUNCTIVE RELIEF**

7 **A. General Provisions**

8 7. The Company reaffirms its commitment to continue to comply with the
9 requirements of Title VII and all other federal laws against discrimination in its
10 employment decisions. To further this commitment, it shall monitor its affirmative
11 obligations under this Consent Decree.

12 8. The Company shall not retaliate against any current or former employee
13 for opposing any practice made unlawful by Title VII. Nor shall the Company retaliate
14 against any current or former employee for making a charge or for testifying, assisting,
15 or participating in any investigation, proceeding, or hearing associated with the case.

16 9. The Company will not disclose any information or make references to any
17 charge of discrimination or this lawsuit in responding to requests for information about
18 Ann Morgan or Genny Smith.
19

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21 **B. Policies Designed to Prevent Harassment and Discrimination**

22 10. The Company agrees that it shall impose substantial discipline -- up to
23 and including termination of employment, suspension without pay or demotion -- upon
24 any supervisor or manager who engages in discrimination, sexually harasses any
25 employee or who retaliates against any person who complains or participates in any
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1 investigation or proceeding concerning any such conduct. The Company shall
2 communicate this policy to all of its supervisors and managers.

3 11. The Company agrees that it shall continue to advise all managers and
4 supervisors of their duty to ensure compliance with the company's EEO policy, and to
5 report any incidents and/or complaints of discrimination, harassment or retaliation of
6 which they become aware. Consistent with this commitment, within thirty (30) days
7 after entry of this Decree by the Court, the Company shall designate an individual
8 ("EEO coordinator") to be responsible for all aspects of the Company's EEO policy and
9 complaint process, and this individual shall have training and experience in EEO
10 management. The EEO coordinator will ensure that all managers and employees
11 understand these procedures and policies.
12

13
14 12. The company agrees to revise its employee appraisal process to include
15 "commitment to equal employment opportunity" as a criterion for qualification and
16 performance evaluation for employees holding supervisory positions.

17 **C. Training**

18 13. Within the first six (6) months following entry of this decree, the Company
19 will ensure at least six (6) hours of employment discrimination training, including training
20 on sexual harassment, is provided annually each year of the decree for all managers
21 and employees in the Company's locations covered by this Consent Decree. The
22 Company will provide the training program plan and materials within ninety (90) days
23 after entry of this Decree.
24

25 14. The Company will notify the EEOC of the completion of the training and will
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1 specify the names and job titles of the employees who participated in and completed
2 the training as part of its annual reporting to the EEOC.

3 **D. Reporting**

4 13. Six (6) months after entry of this Consent Decree and every six (6) months
5 for the term of this Consent Decree, the Company shall provide a report to the
6 Commission on the Company's compliance with the Consent Decree. The Compliance
7 Report shall include the following:

8 (a) a summary of complaints of sexual harassment and retaliation, if any,
9 in any facility covered by this Decree and any resulting internal investigations conducted
10 pursuant to the Company's anti-discrimination policies during the preceding six-month
11 period. The report will describe the resolution of each complaint;

12 (b) certification that the Company completed six (6) hours of EEO training
13 for managers and employees within the first six (6) months following entry of this decree
14 and six (6) hours of training annually for each year thereafter for the duration of this
15 decree. The Company will provide the lists of attendees for all such training;

16 (c) copies of the attendee lists, evaluations, and materials for all training
17 required by this Decree.

18 If the Company has not complied with any term of the Consent Decree, the
19 Company shall provide a statement specifying the areas of noncompliance, the
20 reason(s) for the noncompliance, and the steps taken to bring the Company into
21 compliance.

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VI. ENFORCEMENT

14. The United States District Court for the Western District of Washington shall retain jurisdiction over this matter for the duration of the Consent Decree. If the Commission concludes that the Company has breached any of the above provisions, it shall promptly notify the Company providing a written statement of the alleged breach. The parties shall attempt to resolve the dispute for a period not to exceed thirty (30) days after the Commission's notification of the alleged breach. If the Commission is unable to resolve the dispute to its satisfaction, the Commission may bring an action to enforce this Decree.

VII. TERMINATION OF DECREE

15. This Consent Decree shall be in effect for three (3) years commencing with the date the Consent Decree is entered by the Court. If the Commission petitions the Court and the Court finds the Company to have violated the terms of the Consent Decree, the Court may extend the period of the Consent Decree and award the Commission its costs in bringing an enforcement action.

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1 DATED this 28th day of March, 2005.

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15 Dated: March 28, 2005.

16 BY: /s/ Stephen P. Rickles
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19 Attorneys for Defendant
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